Chapter 4
Voluntary Admission of Adults for Substance Abuse Treatment

4.1 Voluntary Admission for Substance Abuse Treatment

A competent adult may voluntarily seek admission to a facility for substance abuse treatment pursuant to the same procedures set forth for mental health admissions in sections 122C-211 and 122C-212 of the North Carolina General Statutes (hereinafter G.S.). *See infra* Chapter 10. This chapter will address provisions applicable solely to a voluntary substance abuse admission. Counsel should be aware of these specific provisions in order to advise clients facing an involuntary commitment of the possible option of a voluntary admission.

An important distinction from an *involuntary* substance abuse commitment is that a "family unit" may be voluntarily admitted to a facility providing substance abuse treatment. This might be a crucial factor for a parent who does not want to separate from a young child during treatment.

4.2 Terminology Used in this Chapter

"Family unit" is "a parent and the parent's dependent children under the age of three years." G.S. 122C-211(g).

"Incapable adult" is a person who, "in the opinion of a physician or eligible

psychologist, . . . currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions." G.S. 122C-72(4).

"Incompetent adult" is "an adult individual adjudicated incompetent." G.S. 122C-3(17). The procedures for an incompetency proceeding are set forth in Chapter 35A of the North Carolina General Statutes and are beyond the scope of this manual.

"Legally responsible person" is the legally-appointed guardian for an adult who has been adjudicated incompetent. G.S. 122C-3(20)(i).

4.3 Admission and Treatment of Family Unit

A family unit may be admitted to a 24-hour substance abuse treatment facility upon the parent's application if the facility is able to provide services that will address the needs of the family unit, in addition to the needs of the parent. The statute specifies these services as "gender-specific substance abuse treatment, habilitation, or rehabilitation for the parent as well as assessment, well-child care, and, as needed, early intervention services for the child." G.S. 122C-211(f). The facility must determine whether it can provide services for the family unit. If the family unit is denied admission, the facility is required to provide a referral to another facility or facilities that may be able to provide adequate treatment. *Id.*

This provision seeks to address the needs of a parent who requires treatment but who is reluctant or unable to leave a young child or children during inpatient treatment. Additionally, it is directed at early assessment and intervention for developmental problems frequently seen in children of parents, particularly mothers, who are substance abusers.

4.4 Voluntary Admission of Incompetent Adult

An incompetent adult may be admitted pursuant to the procedures for voluntary admission of a competent adult set forth in G.S. 122C-211, with the legally responsible person acting for the individual. The procedures for judicial review of these admissions are set forth *infra* in Chapter 5.

An incompetent person may also be the subject of an involuntary substance abuse commitment proceeding. *See supra* Chapter 3.

4.5 No Admission by Advance Instruction

The statute allowing admission of an incapable person by advance instruction to a facility for "the care or treatment of mental illness" does not include a similar

provision for substance abuse treatment. *See* G.S. 122C-73(c1).

A person deemed incapable of making and communicating treatment decisions may be the subject of an involuntary substance abuse commitment proceeding. *See supra* Chapter 3.

4.6 No Admission by Health Care Power of Attorney

The statute granting the power to a health care agent appointed pursuant to a health care power of attorney to "authorize the giving or withholding of mental health treatment" does not include a similar provision for substance abuse treatment. *See* G.S. 32A-19(a). Likewise, the statutory form for a health care power of attorney, although broad, does not grant authority to consent to substance abuse treatment. *See* G.S. 32A-25.1. A health care agent could consent to medical treatment required as a result of substance abuse, subject to any limitations in the health care power of attorney placed on the authority of the agent to consent to medical care.

A person who lacks sufficient understanding or capacity to make or communicate decisions regarding treatment may be the subject of an involuntary substance abuse commitment proceeding. *See supra* Chapter 3.

4.7 Negotiating a Voluntary Admission When Substance Abuse Commitment Recommended

After discussing the strength (or weakness) of the case for involuntary substance commitment with the client, along with the collateral consequences of substance abuse commitment, counsel should explore the client's willingness to agree to accept treatment voluntarily. A voluntary admission will allow the client to avoid the possibility of being committed and perhaps to have more control over the treatment. These factors are less important if the client has prior substance abuse commitments and has already lost driving privileges.

Counsel should contact the attorney representing the state or the petitioner, if any, if necessary to obtain permission to talk directly with the attending physician or other treatment provider. Discussion points include the client's willingness to follow through with substance abuse treatment, progress the client has made pending the hearing, the statutory preference for voluntary treatment, and the availability of outside support for the client. It might also be persuasive to inform the attending physician of the likely loss of the client's driving privileges, and the effect of that on the client's job and home life, as well as the ability to get to outpatient treatment.